IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.2399 OF 2005

Devendra Natwarlal Maniyar. ... Applicant
Versus.
The State of Maharashtra. ... Respondent.

Shri A.G.Lalla with Shri Rajesh Shriwastav for the Applicant.
Shri A.G.Gadkari, A.P.P. for the Respondent-State.

CORAM : ABHAY S. OKA, J.

DATED : 23rd June, 2005.

P.C.:

1. Heard the learned Counsel appearing for the parties. This Application for bail arises out of N.D.P.S.Special Case No.51 of 2003 which relates to C.R.No.6 of 2003 registered with Anti-Narcotic Cell, C.B. C.I.D. Mumbai.

2. After this application was argued for sometime, the learned Counsel appearing for the parties agreed that while considering the Application for Bail made by the Applicant, the learned Special Judge for N.D.P.S.Cases has considered the merits of other C.R. being C.R.No.7 of 2003 in respect of which there is a separate N.D.P.S. Special Case No.50 of 2003. It is pointed out that the total number of ampoules allegedly seized under C.R.No.6 of 2003 is 9875 and the learned Special Judge has taken the figure of ampoules from the other C.R. namely C.R.No.7 of 2003.

3. In view of this position, the learned Counsel appearing for the parties agree that the case of the Applicant is not considered by the learned Special Judge on merits and the

order dated 30th March 2005 should be set aside and the Bail Application should be directed to be heard afresh by the learned Special Judge. The suggestion made by the learned Counsel appearing for the parties deserves to be accepted.

4. Hence the following order is passed:

(i) The Judgment and Order dated 30th March 2005 in Criminal Bail Application No.52 of 2005 in NDPS Special Case No.51 of 2003 passed by the learned Special Judge is quashed and set aside and the learned Judge is directed to hear and decide the said Application No.52 of 2005 afresh as expeditiously as possible within a period of four weeks from the date on which an authenticated copy of this order is produced before him.

(ii) All contentions of the parties are kept open.

(iii) Parties and the concerned Court to act on an authenticated copy of this order.

Judge.